

Houston, Texas

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**

FORMOSA PLASTICS CORPORATION,
TEXAS 1/

Employer

and

Case 16-RC-10112

PAPER, ALLIED-INDUSTRIAL, CHEMICAL
AND ENERGY WORKERS INTERNATIONAL
UNION

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, herein referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.2/

3. The labor organization involved claims to represent certain employees of the Employer.3/

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of the Section 9(c)(1) and Section 2(6) and (7) of the Act.4/

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

INCLUDED: All production, maintenance, lab technicians and traffic employees.

EXCLUDED: Clerical employees, professional employees, warehouse employees, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION^{5/}

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to issue subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of the Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained the status as such during the eligibility period and their replacements. Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a

strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by Paper, Allied-Industrial, Chemical and Energy Workers International Union.

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list containing the **full names and addresses** of all eligible voters which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759 (1969); and *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list containing the names and addresses of all the eligible voters shall be filed by the Employer with undersigned, who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the NLRB Region 16, Houston Resident Office, 440 Louisiana, Suite 500, Houston, Texas 77002, on or before May 21, 1999. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. This request must be received by the Board in Washington by May 28, 1999.

DATED May 14, 1999, at Fort Worth, Texas.

/s/ Martha Kinard

MARTHA KINARD, Acting Regional
Director
National Labor Relations Board
Region Sixteen
Federal Office Building, Room 8A24
819 Taylor Street
Fort Worth, Texas 76102

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- 1/ The Employer's name appears as amended at the hearing.
 - 2/ The parties stipulated, and I find, that Formosa Plastics Corporation, Texas is a Delaware corporation with a place of business at 101 Formosa Drive, Point Comfort, Texas where it manufactures intermediate plastic products. During the past twelve months, a representative period, it sold and shipped from its Point Comfort, Texas, facility products valued in excess of \$50,000 directly to customers located outside the State of Texas.
 - 3/ The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.
 - 4/ The Employer and the Petitioner stipulated, and I find, that all production, maintenance, lab technicians and traffic employees should be included in the unit and that all clerical employees, professional employees, warehouse employees, guards and supervisors as defined in the Act should be excluded from the unit.

- 5/ Stipulations were received at the hearing concerning all issues except the election date. The National Labor Relations Board has delegated to regional directors its authority “to direct an election or take a secret ballot under subsection (c) or (e) of Section 9 [of the Act] and certify the results thereof” 26 FR 3911 (1961). This delegation of authority implicitly grants to regional directors the right to set the date and place of election, a necessary part of any direction of an election. ***Coca Cola Company, Foods Division, 266 NLRB 165, 169 at Fn.4 (1983).***

In accordance with Section 102.67 of the Board's Rules and Regulations, as amended, all parties are specifically advised that the Regional Director will conduct the election when scheduled, even if a request for review is filed, unless the Board expressly directs otherwise.

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